

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION  
Honorable Edward J. Davila  
Courtroom 4 - 5th Floor**

**TITLE: *UNITED STATES v. RAMESH SUNNY BALWANI*  
CASE NUMBER: 5:18-CR-00258-2 EJD**

**Minute Order and Trial Log**

Date: April 5, 2022

Time in Court: 9:00-11:00 AM; 11:34 AM – 1:12 PM; 1:46-4:06 PM  
**(TOTAL Time: 5 hrs, 48 min.)**

Courtroom Deputy Clerk: Cheré Robinson  
Court Reporter: Irene Rodriguez

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**APPEARANCES:**

Plaintiff Attorney(s) present: Jeffrey Schenk, John Bostic, Robert Leach  
Also present: Agent – Christopher McCollow  
Paralegals – Maddi Wachs; Sara Slattery

Defendant Attorney(s) present: Jeffrey Coopersmith, Amy Walsh, Stephen Cazares,  
Aaron Brecher, Molly McCafferty, Sachi Schuricht

Also present: Paralegal – Jennifer Cygnor  
Also present: Ramesh Sunny Balwani (out-of-custody)

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**PROCEEDINGS:**

**Jury Trial:**

Jury Trial held April 5, 2022. Testimony held and evidence entered.  
Further Jury Trial set for April 6, 2022, at 9:00 AM.

See attached Trial Log.

**The following exhibits were identified and offered:**

Plaintiffs: 5797, 5172, 578, 792, 1901, 5206, 3233, 7753, 5780, 5781, 5783, 5784, 5785, 5788,  
5789, 5791, 5790, 5794, 5085, 3283, 13711, 5141, 3533, 3527, 5190, 5209, 2623,  
4859, 5454, 5795, 5796  
Defendants: 20505, 20511, 20508, 20510, 20512, 20128, 20130, 20129, 20135, 20514, 20516,  
20517, 372, 20206, 20209, 20210, 20211, 20212, 20213, 20214, 4176

**The following exhibits are admitted into evidence:**

Plaintiffs: 5797, 5172, 578, 792, 1901, 5206, 3233, 7753, 5780, 5781, 5783, 5784, 5785, 5788,  
5789, 5791, 5790, 5794, 5085, 3283, 13711, 5141, 3533, 3527, 5190, 5209, 2623,  
4859, 5454, 5795, 5796

Defendants: 20505, 20511, 20508, 20510, 20512, 20128, 20130, 20129, 20135, 20514, 20516,  
20517, 372, 20206, 20209, 20210, 20211, 20212, 20213, 20214, 4176

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**HONORABLE EDWARD J. DAVILA**

**Case Name: *United States v. Ramesh Sunny Balwani***

**Case No: 5:18- CR-00258-2 EJD**

**TRIAL LOG**

<b>TRIAL DATE: April 5, 2022</b>			<b>REPORTER(S):</b> Irene Rodriguez	<b>CLERK:</b> Chéré Robinson
PLF	DEFT	TIME	DESCRIPTION	
		9:00 am	Court in session outside of presence of Jurors to discuss housekeeping matters with counsel	
		9:11 am	Jury Enters Courtroom	
		9:13 am	Court in session; Jury present	
			Court addresses Jury re previous admonishment	
		9:16 am	Witness #3 sworn – So Han Spivey	
		9:17 am	Witness #3, So Han Spivey, takes the stand	
Ex. 5797	Obj.	9:32 am	OFFERED.	
			ADMITTED into Evidence (pursuant to 8036) – <i>Consolidated Financial Statements, Theranos, Inc. Years Ended December 31, 2008 and 2007</i> , ERNST & YOUNG, June 26, 2009	
Ex. 5172		10:00 am	ADMITTED into Evidence – Financial Spreadsheet re Theranos, Inc. Cash Balance, 1/3/2011 – 6/26/2016	
Ex. 578		10:16 am	ADMITTED into Evidence – 2012-04-05 Email String re 2010 Updated Post-close entries schedule – and Attachment: 2010 updated post-close entries schedule	
Ex. 792		10:22 am	ADMITTED into Evidence – 2013-02-12 Yam/Holmes/Balwani Email String re Stanford (as Landlord to Theranos) – and Attachments: Financial Statement Analysis Template – Theranos 2012.xlsx and FS 2012.xlsx	
Ex. 1901		10:29 am	ADMITTED into Evidence – August 2014 Email String re Theranos – 2013 Tax Return PBC – and Attachment: TB123113.xlsx	
Ex. 5206		10:36 AM	ADMITTED in Evidence (pursuant to 8036) – Mar – Apr 2015 Email String re Theranos: 409A valuation analysis – March 25, 2015 valuation date – and Attachment: ARANCA, <i>An Aranca Report – Theranos, Inc., FMV of common stock as of March 25, 2015</i> , Apr. 6, 2015	

TRIAL DATE: April 5, 2022			REPORTER(S): Irene Rodriguez	CLERK: Chéré Robinson
PLF	DEFT	TIME	DESCRIPTION	
Ex. 3233	Obj	10:49 am	ADMITTED into Evidence (pursuant to 8036) – Theranos, Inc. & Subsidiary Form 8879-C – Tax Year Ending 2015 [prepared by Moss Adams, LLP]	
Ex. 7753		10:55 am	ADMITTED into Evidence – Nov. 2-3, 2016, Yam/Gellman Email String re Pharmaceutical payments for milestones – Privileged & Confidential, and Attachments: List of receipts from Pharma; contract summary; related contracts	
		11:00 am	Court breaks for 34 minutes	
		11:34 am	Court in session; Jury present; Witness #3 So Han Spivey present.	
		11:35 am	So Han Spivey takes stand; testimony continues	
Ex. 5780		11:36 am	ADMITTED into Evidence – Comerica Bank Statement of Account - Commercial Checking Statement of Theranos Inc. for period Aug 1-31, 2013	
Ex. 5781		11:39 am	ADMITTED into Evidence – Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Sep. 1-31, 2013	
Ex. 5783		11:41 am	ADMITTED into Evidence - Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Dec. 1-31, 2013	
Ex. 5784		11:43 am	ADMITTED into Evidence - Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Jan 1-31, 2014	
Ex. 5785		11:46 am	ADMITTED into Evidence – Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Feb. 1-28, 2014	
Ex. 5788		11:48 am	ADMITTED into Evidence - Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Oct. 1-31, 2014	
Ex. 5789		11:49 am	ADMITTED into Evidence – Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Nov. 1-30, 2014	
5791		11:51 am	ADMITTED into Evidence - Comerica Bank Statement of Account – Commercial Checking Statement of Theranos Inc. for period Dec. 1-31, 2014	
5790		11:54 am	ADMITTED into Evidence - Wells Fargo Bank Statement – Account Summary WellsOne Account of Theranos Inc. for periods 11/7/2014 – 5/31/2016	

TRIAL DATE: April 5, 2022			REPORTER(S): Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
5794		11:57 am	ADMITTED into Evidence – Theranos Shareholder List	
5085		12:04 pm	ADMITTED into Evidence – May 24-25, 2013, Holmes/Yam (Spivey) Email Chain re 409a – aranca valuation of company stock valuation	
3283		12:08 pm	ADMITTED into Evidence – July 30-31, 2013, Yam (Spivey)/Balwani/Holmes Email String re per our conversation with Attachment: Theranos Projections 2013-2014 v2 (formatted).xlsx	
13711		12:13 pm	ADMITTED into Evidence - Aug. 2013 Holmes/Balwani/Yam (Spivey) Email Chain re 409a projection	
5141	Obj	12:16 pm	ADMITTED into Evidence - Dec. 7-8, 2014, Email String re 409A Valuation Report, with Attachment: 12/6/2013 aranca Report – <i>Theranos, Inc., FMV of common stock as of September 30, 2013</i>	
3533		12:20 pm	ADMITTED into Evidence – 2014-02-16 Yam (Spivey) Email to Holmes re 409a prep	
3527		12:23 pm	ADMITTED into Evidence – 12/21-23/2014 Holmes/Yam (Spivey) Email String re 409A	
5190	Obj	12:26 pm	ADMITTED into Evidence – 12/31/2014 Yam (Spivey) Email to Holmes re 409A report, and Attachment: 12/31/2014 ARANCA REPORT – <i>Theranos, Inc., FMV of common stock as of December 15, 2014</i>	
5209	Obj	12:32 pm	ADMITTED into Evidence – 4/13/2015 Yam (Spivey) Email to Holmes re 409A report as of 3/25/15, with Attachment: 4/6/2015 ARANCA REPORT – <i>Theranos, Inc. FMV of common stock as of March 25, 2015</i>	
2623		12:35 pm	ADMITTED into Evidence – 06/25/2015 - 07/16/2015 Email Chain re sunil dhawan and re 409A	
4859		12:40 pm	ADMITTED Conditionally into Evidence (subject to another witness laying foundation) – Theranos Confidential - <i>Projected Statement of Income</i> for periods ending 12/31/2014 and 12/31/2015	
5454		12:46 pm	ADMITTED into Evidence – 07/24-25/2015 Email String re Horizon Media, and Attachment: DJ copy points.docx	
5795		12:51 pm	ADMITTED into Evidence – 06/25/2015 Yam (Spivey) Email to Balwani re Please approve this wire	
5796		12:53 pm	ADMITTED into Evidence – Theranos Internal Document: Summary of Expenses by Category	
		12:59 pm	Ex. 5387H – Previously Admitted: 2011-2016 Misc. Text Messages	
		1:12 pm	Court breaks for 34 minutes	

TRIAL DATE: April 5, 2022			REPORTER(S): Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
		1:46 pm	Court in Session; Jury present; Witness #3, So Han Spivey, present.	
		1:48 pm	Cross-examination of So Han Spivey begins.	
	Ex. 20505	1:57 pm	ADMITTED into Evidence – 08/13/2009 Balwani Letter to Theranos re loan customer agreement between Theranos and Fidelity – Balwani Guarantor for \$10M	
	Ex. 20511	2:01 pm	ADMITTED into Evidence – 04/19/2010 Email String re Loan for Theranos – Balwani now Guarantor for \$12M	
	Ex. 20508	2:04 pm	ADMITTED into Evidence – 08/28/2009 Holmes Conditional Offer of Employment Letter to Balwani as Vice Chairman	
Obj	Ex. 20510	2:11 pm	Defense Offers Ex. 20510	
			Objection Sustained; further foundation to be laid	
Obj	Ex. 20510	2:12 pm	Defense Offers Ex. 20510	
			Objection sustained; further foundation to be laid re personal knowledge	
	Ex. 20510	2:13pm	ADMITTED into Evidence – Theranos, Inc. Minutes of a Meeting of the Board of Directors – Friday, October 30, 2009	
	Ex. 20512	2:16 pm	ADMITTED into Evidence – Theranos, Inc. Minutes of Meeting of the Board of Directors – Tuesday, August 10, 2010	
	Ex. 20128	2:25 pm	ADMITTED into Evidence – Notice of Exercise - Common Stock Purchase Warrant	
	Ex. 20130	2:29 pm	ADMITTED into Evidence – 04/14/2010 Theranos, Inc. 2004 Stock Plan – Early Exercise	
	Ex. 20129	2:37 pm	ADMITTED into Evidence – 08/21/2011 Theranos Inc. 2004 Stock Plan – Early Exercise	
	Ex. 20135	2:39 pm	ADMITTED into Evidence – 12/16/2011 Theranos Inc. 2004 Stock Plan – Early Exercise	
	Ex. 20514	3:01 pm	ADMITTED into Evidence – Theranos, Inc. Minutes of a Meeting of the Board of Directors – Tuesday, January 20, 2015	
	Ex. 20516	3:06 pm	ADMITTED into Evidence – Theranos, Inc. Minutes of a Meeting of the Board of Directors – January 14, 2013	
	Ex. 20517	3:07 pm	ADMITTED into Evidence – Theranos, Inc. Minutes of a Meeting of the Board of Directors – April 15, 2015	
	Ex. 372	3:10 pm	ADMITTED into Evidence – Theranos/Walgreens Master Purchase Agreement, July 20, 2010	

TRIAL DATE: April 5, 2022			REPORTER(S): Irene Rodriguez	CLERK: Chéré Robinson
PLF	DEFT	TIME	DESCRIPTION	
	Ex. 20206	3:18 pm	ADMITTED into Evidence – Portion of Theranos Manufacturing Facility	
	Ex. 20209	3:21 pm	ADMITTED into Evidence – 02/7/2012 Lease agreement headquarter space from Stanford	
	Ex. 20210	3:22 pm	ADMITTED into Evidence – Lease Agreement for Newark bmr-pacific research center march 6, 2012	
	Ex. 20211	3:23 pm	ADMITTED into Evidence – Lease Agreement between Theranos and SkySong Office 3 for lab space in Arizona, 5/30/2014	
	Ex. 20212	3:25 pm	ADMITTED into Evidence – Jan/Feb 2015 Email String re business permit for new facility – East Pennsboro Township	
	Ex. 20213	3:27 pm	ADMITTED into Evidence – 01/20/2015 Commercial Lease between Theranos and 1250 Associates re new facility in Camphill, PA	
	Ex. 20214	3:29 pm	ADMITTED into Evidence – Jan 2016 Email String re misc. leases expiration dates	
		3:32 pm	ADMITTED into Evidence – Previously marked Ex. 578 (spreadsheet)	
	Ex. 4176	3:34 pm	ADMITTED into Evidence – Theranos, Inc. and Subsidiary Consolidated Statement of Operations – Years Ended December 31, 2013, 2012, 2011 and 2010	
		3:46 pm	Redirect by Mr. Robert Leach	
		3:52 pm	Re-Cross by Mr. Coopersmith	
		3:53 pm	Witness excused.	
		3:54 pm	Court admonishes Jury	
		3:55 pm	Jury exits Courtroom	
			Court in session outside presence of Jury to address housekeeping matters with Counsel	
		4:06 pm	Court adjourned	
			Jury Trial Continued to April 6, 2022	